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## RESPONSE TO A FLAWED NEW JERSEY HIGHER EDUCATION TASK FORCE REPORT

2/11/2011

The New Jersey Higher Education Task Force Report to the Governor, issued on January 4, 2011, is fatally flawed if for no other reason that it is written purely from the perspective of the boards of trustees and state college/university presidents. No higher education union representatives were asked for input. There was no attempt to elicit the views of the employees ---faculty, librarians or professional staff--- who struggle to make higher education work in New Jersey despite the lack of resources and funding. Therefore, as the representative of 8,700 state college/university faculty, librarians and professional staff at the nine state colleges/universities, it is our responsibility to provide an alternative vision. What follows are Task Force recommendations and/or concerns in **bold**, followed by our response with some of our suggestions and recommendations.

### STATEWIDE COORDINATION

**Task Force Recommendation: The Commission on Higher Education should be eliminated and replaced with a Secretary of Higher Education and a new Governor's Higher Education Council. A Secretary of Higher Education and a new advisory Governor's Higher Education Council should stand at the center of the new structure.**

The Report proposes to eliminate the Commission on Higher Education and replace it with a Secretary of Higher Education who would appoint a Governor's Higher Education Council comprised of five members chosen by the Governor. But its authority over the state colleges/universities would be limited to intervening in cases of dire "financial difficulty, fraud or gross mismanagement." In effect, this is a major retreat from S-1609, the bill signed into law in early 2010 as PL 2009, Chapter 308, passed in response to 2007 State Commission of Investigation Report, "***Vulnerable to Abuse: the Importance of Restoring Accountability, Transparency and Oversight to Public Higher Education Governance.***" S-1609 calls for an expanded Commission of Higher Education with greater oversight authority and goes further in mandating training and accountability of board members. Although a state law, Governor Christie has refused to implement it. Rather, he is calling for the total elimination of the Commission.

The Commission on Higher Education should not be abolished, but instead be strengthened and given even more authority based on lack of accountability and misuse of public funds. The current Commission includes and must continue to include student and faculty representatives who are the core of higher education. It is much more representative of New Jersey stakeholders than a Higher Education Council appointed by a Secretary of Higher Education.

We find it ironic that the Task Force Report approves of some of the changes in PL 2009, Chapter 308 but only chooses to recommend the sections it approves. At the same time, they recommend drastically changing other sections to suit the President's Council wishes rather than asking for the Governor to

implement the law in its entirety. They apparently want to accomplish what they could not change in S-1609 before it became law by using the Task Force Report as a means to those goals.

### INSTITUTIONAL GOVERNANCE

**Task Force Recommendation: Trustees should have qualifications to ensure their ability to oversee the institutions their charge. The State should...continue to give these institutions high degree of self-governance.**

Only by quoting the Report itself can its blind faith in judgment of boards of trustees be captured:

*Managing the finances of New Jersey's colleges and universities is not an easy task. It should rest in the hands of independent boards of trustees, who have the ultimate public responsibility to operate their institutions efficiently and well. New Jerseyans should appreciate the value added by the citizen volunteers who serve on these boards. They give their time, their talent, and their financial support to help create centers of learning that benefits students and the institutions' surrounding communities. We must ensure that trustees of the highest quality continue to be attracted to these positions.*

Here is the source of our fundamental disagreement with the Report. Some of our "institutional leaders" have demonstrated that they are not to be trusted and already have too much "autonomy." The management of New Jersey's colleges and universities should not rest in their hands alone. The individuals that the Report shamelessly lauds as underappreciated "citizen volunteers" are no such thing. They are mainly corporate executives with political connections. It takes years for corporate board members to comprehend the academic culture. At the point in time that they do understand the culture, they oftentimes are not reappointed to or leave the board and new members have to be trained again. Over the years the Council has nominated many qualified candidates. Not one of them has ever been appointed.

Even under the best of circumstances, the perspective of the trustees is too narrow, inevitably ignoring the needs of the system as a whole and consistently favoring management over faculty by deferring to the wishes of their chosen president. But these are not the best of circumstances. How soon the Task Force forgot the scathing 2007 State Commission of Investigation (SCI) Report, "Vulnerable to Abuse: the Importance of Restoring Accountability, Transparency and Oversight to Public Higher Education Governance" in response to a series of higher education scandals directly attributed to lack of State oversight. From reading the Task Force Report you would think it never existed because they fail to identify the remedies for abuses identified in the SCI report.

With minimal state oversight, the state college and university boards of trustees have raised tuition to new heights, provided their presidents and top managers with lucrative salaries and perks, increased the ranks of non-essential high level management, decreased the ranks of full-time faculty, accumulated excessive debt, built new facilities regardless of cost or need and neglected existing facilities through protracted deferred maintenance.

There have been way too many instances of lack of oversight in new construction or upgrading current buildings, at the cost of millions of dollars. Examples include: dormitories built that were never completed and had to be torn down because of mold; townhouses built with a large overrun in costs that did not open in time for the semester, which in turn caused students to be housed in hotels that lacked sprinkler systems, the purchase of a country club, etc.

During the Corzine administration, Jane Oates, then the Executive Director of the Commission of Higher Education discovered that most of the State colleges and universities under-reported the number of full-time employees eligible for State benefits and that the institutions did not reimburse the State for the cost of those additional employees. This omission cost the State tens of millions of dollars. A state college's purchase of a country club, cited above, deprived the local township much needed revenue removing the facility from the tax rolls.

**Task Force Recommendation: Except for Rutgers... the governing boards of the senior public colleges and universities should initiate the trustee nomination process by reviewing candidates and presenting them to the governor.**

Far from restoring oversight, the Task Force goes in the opposite direction. Currently the Governor's office reviews potential candidates wishing to serve on state college/university boards of trustees and makes appointments, subject to approval of the State Senate. The Report advocates a system whereby the boards themselves "initiate the trustee nomination process by reviewing candidates and presenting them to the governor" who "should be required to select one of the board's nominees." Ultimately, the Governor can appoint a nominee of his/her own choosing, but only in consultation with the trustees. This is nothing but a formula for self-perpetuating boards of trustees. The public is entirely cut out of the process.

One sure way to improve institutional governance is to expand the boards to include two employees chosen by campus employee unions. The Council has been pressing for legislation to accomplish this goal for decades and there is a bill, A-392 currently sitting in the Assembly Higher Education Committee. Without specifically referencing this bill or others of this nature, the Task Force Report intones, "The legislature should refrain from trying to micromanage New Jersey's colleges and universities, and the governor should oppose, and ultimately veto, such measures." Yet the Task Force Report favors legislative interventions when it advances the agenda of the state college/university presidents and boards of trustees, explicitly endorsing every one of Governor Christie's "tool kit" proposals affecting higher education, including A-2964 and S-2172, which would authorize individual boards of trustees to extend the pre-tenure probationary period beyond five years. The Report at page 30 actually misrepresents these bills to make them sound more palatable, by conflating them with a non-tool kit bill A-3357, which would extend the probationary period to six years in the County and State Colleges/University systems.

#### **REGULATIONS AND UNFUNDED MANDATES**

**Task Force Recommendation: To increase the efficient operation of all of New Jersey's colleges and universities and to help them achieve their missions, the bipartisan Red Tape Review Commission should act favorably on the New Jersey Presidents' Council's "Regulatory Relief and Unfunded Mandates" report. Going forward, the State should pay for any mandates imposed on New Jersey's colleges and universities. The current mandates cost tens of millions of dollars each year, burdening students with higher tuition costs and diverting scarce resources from the educational missions of the institutions.**

The Presidents Council Report, issued in February 2010, contains a number of recommendations detrimental to sound governance, the public interest and the welfare of employees we represent. It seeks exemption from anti-corruption pay to play laws. It flouts its civic duty by opposing free tuition to the unemployed, members of the National Guard and surviving spouses of public safety workers killed in the line of duty unless the State provides the funding. It opposes tuition waivers for NJ STAR students.

We reject the notion that these mandates are not integral to the mission of our public institutions of higher education. They should be factored into the institution's operating costs and funded in the same manner. The presidents should not be permitted to shirk their community service.

The Presidents Council also proposes to eliminate employer pension contributions for part-time employees, including adjunct faculty, based on the cynical argument that "these employees currently must self-fund the cost of health benefits and should self-fund their pension benefits." There is no recognition of the Presidents Council Report that the public colleges and universities cannot expect to provide quality education to our students by exploiting its contingent workforce.

**Task Force Recommendations: To make rules regarding personnel consistent among Rutgers and the other public colleges and universities, the legislature should pass Governor Christie's tool-kit bills that would reform workers compensation, collective bargaining, and civil service at the state colleges and universities. Authorizes the state colleges and universities to conduct collective bargaining (S-2026/A-2963; S-2337/A-3219).**

The "tool-kit" bills poised on the very top of the boards of trustees and presidents wish lists are the dissolution of state-wide bargaining, eliminating civil service at the State colleges/universities and changes to impasse in negotiations. How could separate bargaining bring about consistent standards regarding personnel? If anything, separate bargaining would create an even greater disparity, pitting one institution against another and undermining employee morale.

The state colleges/universities have a thirty seven year bargaining history with the Council, based on a certification from the Public Employment Relations Commission which favors "broad based units." Furthermore, the state college/university presidents are represented at the negotiations table and are signatories to agreements. There are also easily hundreds of campus-based agreements that have been and continue to be negotiated on the local level. These local agreements provide for institutional flexibility and the development of a unique educational identity.

There are currently four state employee contracts covering eight of the state colleges and universities, except for Thomas Edison which does not have an adjunct faculty unit. Under the scenario envisioned by the Task Force, Governor Christie and the presidents, there would be thirty-five separate contract negotiations and thirty-five separate contracts. This would obviously create administrative chaos, exponentially increase the risk of labor unrest and cost the institutions additional thousands of dollars in legal fees and extra personnel costs for additional labor negotiations and contract administration. From the employee standpoint, the first casualty would be our uniform salary guides that discourage management from rewarding their favorites and have done so much to ensure the equitable treatment of women and minorities. Ample proof can readily be found in the Rutgers, NJIT and UMDNJ faculty contracts which allow management to pay widely divergent salaries to faculty doing virtually the same work. This proposal to de-centralize bargaining also flies in the face of Governor Christie's position advocating the consolidation of public school districts and county-district wide control over the bargaining of new contracts.

The recommendation to eliminate civil service at the State colleges/universities (S-2026/A-2963; S-2388/A-3220) is also patently unfair and will ultimately lead to a patronage system and favoritism in hiring and compensation. Vitaly important protections will be lost for these employees.

The recommendation to implement the Governor's toolkit bills S-2027 and A-2962 that would require PERC fact finders/mediators assigned to resolve an impasse in negotiations involving unions at our state colleges/universities to take into account (1) the impact of budget cuts, (2) the impact of a recommended settlement on tuition rates and (3) the cost of State employee benefits. The implication is that PERC's consideration of these factors will result in leaner and meaner collective bargaining agreements. These factors are one-sided. If the impact of budget cuts is to be considered, then why not the impact of budget increases? If the cost of State employee benefits is to be weighed in the balance, why not the cost of managerial compensation, documented examples of waste and fiscal irresponsibility or for that matter, the size of an institution's reserve funds? Although we are all concerned about rising tuition, there is no direct correlation between contract settlements and tuition rates. High debt service caused by excessive borrowing and other poor managerial decisions are more responsible for driving up tuition than faculty and staff salaries. In sum, this bill is playing with loaded dice and should be rejected.

The state colleges/universities have enjoyed "autonomy" for many years now, but will not be satisfied until they can operate as private institutions with no state oversight. They are already halfway there. Whereas our master contract provides for uniform salary scale with guaranteed annual increments,

each institution already has a free hand in the hiring and compensation of its own managerial staff. As the proportion of managers to full time faculty and staff has risen, so have managerial salaries. Bonuses and other perks inflate the salaries of presidents. Local boards of trustees have awarded presidents and other administrators bonuses while their employees were furloughed. Presidents have use millions of dollars of institutional funds to purchase and refurbish homes. They shield themselves from public accountability by claiming the source is not State funds. There should be strict accountability to a central authority regardless of funding source.

### MISSION

**Mission Differentiation – There is a persistent myth asserting that New Jersey’s colleges and universities are needlessly duplicating programs. The Task Force looked for evidence proving these accusations, but uncovered little evidence to support this claim.**

The Task Force Report dismisses claims that the current governance structure has allowed the college/university presidents to create duplicative programs, but it apparently did not look very far. New construction for the sake of enhancing the reputation of one institution at the expense of its neighbor not only costs millions, but has resulted in empty classrooms. If they are not empty, chances are there is an adjunct faculty member in front of the class. Amazingly, state colleges/universities overreliance on adjunct faculty, which has grown rapidly in recent years, does not merit a single sentence in the Report, but this does not change the fact that overworked, underpaid adjunct faculty, with little or no voice in campus governance, outnumber full-time faculty throughout the state college/university system. The worst example is Kean University, where the proportion of adjunct faculty to full-time faculty is three to one. It is important to note that adjunct faculty do not have offices, do not have office hours, do not advise students, do not write grants, do not conduct research, do not serve on committees, do not engage in curriculum development, etc.

### CAPITAL FINANCING/OPERATING SUPPORT

**Task Force Recommendation: While fully recognizing the State’s immediate budgetary concerns, we recommend that the State must, as soon as possible, provide greater financial support for the operating budgets of New Jersey’s colleges and universities.**

The Task Force Report correctly highlights the long term underfunding of higher education in New Jersey, although this will not be news to legislators and to those who have read the New Jersey Policy Perspective report *Flunking Out: New Jersey’s Support for Higher Education Falls Short*, first issued in 2006 and updated in 2010. Items mentioned in the Task Force Report that mirror the *Flunking Out* report include the following:

- Operating support to New Jersey’s colleges and universities has been declining for 20 years.
- The size of the cuts has increased alarmingly over the past five years.
- New Jersey’s colleges and universities have suffered a long and steady starvation of State aid, under both political parties, even as costs and student demand has grown.
- New Jersey ranks 34<sup>th</sup> among the 50 states in per capita higher education spending, 39<sup>th</sup> in higher education spending as a percentage of total State spending, 44<sup>th</sup> in higher education spending per \$1,000 of personal income and 47<sup>th</sup> in the percentage increase in state appropriations for higher education in the past five years. (source on page 129 of report)

To reverse these trends, the Report makes some worthwhile recommendations--the issuance of general obligations bonds and the creation of “a dedicated revenue stream to provide annual capital funding for institutions of higher education.” We would go further and recommend an additional dedicated revenue stream to fund operating costs.

We also question why the report lacks substantive proposals on ways for institutions to save money. For example, our public higher education institutions use different student and financial computerized systems such as People Soft and Banner or attempt to develop their own, as Rutgers did. Before autonomy, a shared system provided payroll and other services. There are some institutions that use the same system, however they do not coordinate their purchasing, training, and modifications to NJ's reporting requirements. Evidence of this kind of waste was discovered at two of our institutions when they sent ten or more personnel to Hawaii for training when they could have received the training in New Jersey.

One shared system, or 12 institutions using the same computerized system could achieve better pricing, savings on joint training sessions conducted in-state, and open the door for a seamless exchange of information. This could include a universal student database, permitting easier transfer of student records between institutions. A resident student at one institution could, over the summer, take courses at another institution and have the credits seamlessly transferred to his or her primary institution. Students who would otherwise have to delay their graduations for one semester due to last minute course cancelations or the failure of the institution to offer a specific course could easily check to see if the course is offered at another institution. A universal database for personnel would make it easier to track adjunct faculty and part-time employees who are working at more than one institution. The hiring of adjunct faculty could be streamlined and once hired at one institution they could be hired at another under an abbreviated hiring process. Each institution would not have to certify degrees and other personnel information. Other streamlining could include the way our colleges and universities report tuition, financial aid and other data to Treasury and to the Commission on Higher Education, ensuring uniformity in verification procedures

We also believe that there should be a statewide compensation guide for out-of-unit employees, i.e., presidents, provost, vice-presidents, deans and mid-level managers, and that their compensation should be tied to objective guidelines that take into account the size of each institution (physical plant, students and faculty). It is absurd that the president of Thomas Edison State College, his executive employees and mid-level administrators command salaries comparable to presidents and executives at institutions that employ resident faculty and educate on-site student populations.

## TUITION

**Task Force Recommendation: To help mitigate tuition increases, the governor and the legislature should not impose tuition caps on Rutgers and other senior public colleges and universities.**

While admitting that New Jersey has the second highest state college/university tuition and fees in the nation, its concerns over the high cost of college education have a hollow ring. The Report explicitly declares that "Caps on tuition and fees infringe on institutional autonomy. Institutional leaders, attuned to the needs of their campuses, must be trusted to set the level of tuition appropriate to raise funds needed to support their operations and maintain educational excellence." This is a gross repudiation of the democratic process. **Legislators, parents, students, educators and other concerned citizens are asked to defer to self-appointed boards of trustees to make this decision.**

Maintaining "current policies regarding TAG funding" is not sufficient. If, as the Report reveals, fully 34% of undergraduates are part-time students, then they too should be eligible for TAG. The Council has advocated for such legislation for decades with no support from the state college/university presidents. Furthermore, eliminating duplication of functions and unnecessary bureaucracy that flow from institutional autonomy, limiting the ranks and salaries of top administrators and implementing more shared services to keep operating costs down are all measures that can be effective in controlling tuition. None of these receive any consideration in the Report.

**Task Force Recommendation: To help mitigate tuition increases, the State should fund increases in salaries negotiated at the 12 senior public colleges and universities at least at the same level as any increases in salaries negotiated with State employees.**

While we strongly agree with this recommendation, there is no direct connection between state funding of our salaries and tuition increases. Chronic state underfunding of the entire cost of public higher education certainly plays an important role as do other factors such as debt service and excessive managerial salaries.

However, the Report presents a chart that isolates “the absence of funding for salary increases negotiated by the State itself at the nine state colleges and universities” as if it were the only cause of tuition increases. (See page 47 of the report) The chart is misleading and its numbers defy logic. In 2005 and 2006, for example, years in which the State funded close to 50% of its salary obligations, tuition rose by 9.3% and 7.1% respectively, whereas in 2007, when the State did not fund the salary increase at all, tuition rose by a lesser amount, i.e. 6.9%. Furthermore, compare 1998 and 2004, years that the State did not fund negotiated salary increases. In 1998, when it would have taken \$13,500,000 to fully fund the salary increase, tuition increased by 10%. However, in 2004 when only \$4,318,000 would have fully funded the salary increase, tuitions rose by 10.2% tuition increase. There appears, then, to be no direct correlation between salary funding and tuition increases. Ultimately, this chart is a presidential myth because during the first year of any increase, the State may fund anywhere from zero to 100% of the negotiated salary increase, but it does base subsequent years funding on the institutions new base which includes the increases.

On page 44, the Report does note that “New Jersey public colleges and universities are more leveraged with debt than most public institutions in the country” and “they pay this debt in part through tuition increases and fees...” Indeed, debt service is an extremely important factor in driving up tuition, but the Task Force Reports fails to make the connection.

### **CONCLUSION**

Lack of central planning, coordination and oversight negates the very concept of a *system* of public higher education in New Jersey. We agree that “the State must reverse decades of underfunding and neglect and instead invest in and embrace our colleges and universities.” However, if the State ultimately lives up to its obligation to properly fund higher education, it should not be solely up to our institutions’ presidents and self-perpetuating, self-aggrandizing boards of trustees to decide how this money is spent.

A five person task force consisting of corporate and higher education administrators, clearly speaking on behalf of the presidents and boards of trustees, should not be the only voices to whom the Governor listens when it comes to making higher education policies for the citizens on New Jersey. A better solution would be to reconvene a task force that truly includes all segments of the higher education community and truly values the input from those who have made a lifelong career at these institutions. Only then will there be a report that honestly and effectively addresses real problems and provides real solutions. Until the voices of legislators, students and their families, state college employees and their union leadership and community organizations are heard, no action should be taken on any of the recommendations in the Report, except those that call for more funding for higher education. To begin this process, we call on the State Legislature to conduct public hearings on the future of public higher education in New Jersey— its mission, funding, affordability and governance.

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